UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HOWARD BERRY and DAVID BERRY, individually and on behalf of all others similarly situated,	No. 2:15-cv-01299-RAJ
Plaintiffs,	**DECLARATION OF ERIK ZANDHUIS**
v.	
TRANSDEV SERVICES, INC., f/k/a VEOLIA TRANSPORTATION SERVICES INC., and TRANSDEV NORTH AMERICA, INC., f/k/a VEOLIA SERVICES, INC.,	
Defendants.	

I, Erik Zandhuis, declare as follows:

1.   I am the General Manager for Transdev Services, Inc. in Seattle, Washington. I am over the age of 18 and have personal knowledge of the facts stated below and am competent to testify thereto. I am familiar with the exhibits attached to this declaration, which are records kept by Transdev in the regular course of business and which were made at or near the time of occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters. The said records attached hereto are the originals or exact duplicates of the originals.

1   2.   Attached to this declaration as **Exhibit C** is a true and correct copy of

2   Transdev's Rest Break Verification Policy which I signed and approved on February 3, 2016.

3   3.   Attached to this declaration as **Exhibit D** is a true and correct copy of email

4   correspondence exchanged between Transdev, King County, and First Transit between

5   November 19, 2015 and November 23, 2015.

6   4.   Attached to this declaration as **Exhibit E** is a true and correct copy of email

7   correspondence from First Transit's Operations Manager, Donna Sansoterra, dated December

8   3, 2015.

9   5.   Attached to this declaration as **Exhibit F** is a true and correct copy of email

10   correspondence from First Transit's Operations Manager, Donna Sansoterra, dated January 8,

11   2016.

12   I declare under penalty of perjury under the laws of the United States that the foregoing

13   is true and correct.

14   Executed at Kent, Washington this 14th day of November, 2016.

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16   Erik Zandhuis

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CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record:

Dated this 14th day of November, 2016.

s/Anthony Todaro
Anthony Todaro

EAST\136785612.1

DECLARATION OF ERIK ZANDHUIS - 3
NO. 2:15-cv-01299-RAJ

DLA Piper LLP (US)
701 Fifth Avenue, Suite 7000
Seattle, WA 98104-7044 | Tel: 206.839.4800

EXHIBIT C

SOP 001	**MEAL AND REST BREAK VERIFICATION** APPLIED RETROACTIVELY TO JANUARY 1, 2016	Last update: 2/7/16

APPROVED: _____   DATE: 2/3/2016

Erick Zandhuis, General Manager

I. PURPOSE

To establish procedures for the proper recording and payment of driver meal and rest breaks in compliance with Washington state law.

Under Washington law, drivers are entitled to take a 10 minute rest break for every 4 hours worked and a driver may not be required to work more than 3 consecutive hours without a rest break or a meal period. Instead of taking one 10 minute break, a driver may take a series of shorter breaks for every 4 hours worked so long as the shorter breaks equal at least 10 minutes.

Meal period requirements are triggered by an employee working more than 5 hours of work. Each employee shall be allowed an unpaid non-working 30 minute meal period commencing after the second working hour and no later than the end of the fifth working hour. Each employee who works more than 3 hours longer than a normal workday shall be allowed a meal period before or during the extra portion of the shift. A "normal work day" is the shift the employee is regularly scheduled to work. If the employee's scheduled shift is changed by working a double shift, or working extra hours, an additional meal period is authorized. The second 30 minute meal period must be given within the 5 hours from the end of the first meal period and for each 5 hours worked thereafter.

II. PROCEDURES

a. Driver Procedures

- Drivers will review their daily manifest prior to leaving the yard to know the scheduled times of all rest and meal breaks.

- Drivers must use the Mobile Data Computers (MDCs) to record the start and end time of all rest breaks and meal breaks. Drivers must also record the start and end time of the meal break and sign the certification block acknowledging that the Manifest Cover Sheet is used as the service and payroll source document a sample of which is attached as Attachment 1.

- If the Driver encounters a problem or service demands require him or her to miss a scheduled rest or meal break, the Driver must immediately notify the Control Center Dispatcher of the missed rest or meal break. If the dispatcher fails to immediately resolve the problem, the Driver must immediately notify his or her immediate supervisor or Window Dispatcher. If a break was missed, Drivers are expected to identify possible downtime during the day during which he or she could take a rest or meal break, and with approval from the Control Center Dispatcher, take a rest or meal break.

- If a Driver is unable to take a required rest or meal break on a given day, the Driver is required to check the Missed Rest Break box on that day's Manifest Cover Sheet and to explain the reason for the missed rest or lunch break.

- Drivers are required to give the signed manifest and completed Manifest Cover Sheet to Window Dispatch upon returning to the yard at the end of their shift and to provide clarification and/or correct any mistakes identified by Window Dispatch.

b. Window Dispatch Procedures

- The Window Dispatcher will accept the manifest and completed Manifest Cover Sheet from the Drivers and verify:

  - that the Driver has entered the start and end time of the lunch period;
  - that the Driver signed the certification block acknowledging that the Manifest Cover Sheet is used as the service and payroll source document; and
  - whether or not the Driver has checked the Missed Rest Break box

- The Window Dispatcher must request the Driver to clarify, provide more information, or correct any mistakes as necessary to secure a clear, complete, and accurate record, to include securing a Driver's signature or requesting a more detailed explanation from the Driver concerning why he or she did not get a lunch and/or rest break(s).

- The Window Dispatcher will separate and keep all manifests and Manifest Cover Sheets for which the driver checked the Missed Rest Break box.

- At the end of the day, the Window Dispatcher will give all manifests and Manifest Cover Sheets for which the driver checked the Missed Rest Break box to the Trip Editor.

c. Trip Editor Procedures

- The Trip Editor will double-check to ensure the Driver has signed the Manifest Cover Sheet and secure any missing Driver signatures.

- The Trip Editor will pull corresponding Trapeze trip and break data to verify the Driver did not take a rest or meal break. In all instances in which there appears to be a discrepancy, the Trip Editor will provide the Manifest Cover Sheet and Trapeze data to the General Manager for further clarification with the Driver.

- On a daily basis, the Trip Editor will prepare a report summarizing:

    - the names of the Drivers not receiving a rest or meal break for that day;
    - the reason why the driver did not receive the rest or meal break;
    - and the number of unpaid minutes for which the Driver is entitled payment.

- The Trip Editor's report will include attached copies of all applicable manifests and Manifest Cover Sheets. The Trip Editor will provide a copy of the report to the General Manager and the Payroll Manager.

- The General Manager will use the summary report to conduct trend analysis and communicate with the Control Center areas for improvement to reduce rest and meal break violations.

d. Payroll Procedures

- Using the daily report provided by the Trip Editor, the Payroll Manager will ensure all Drivers receive payment for missed rest and lunch breaks.

- END OF PROCEDURES -

EXHIBIT D

I interpret this as dispatch explaining why the break was up against lunch. Driver advised he was taking now and not with lunch and I am ok with that. It should have been moved to the proper place already.

Donna Sansoterra
Operations Manager
Office: 206-749-4210 | 675 S. Lane, Ste 400, Seattle WA 98104
Mobile: 206-793-3739 | donna.sansoterra@firstgroup.com
www.firstgroup.com

First

Our vision is
to provide solutions for an increasingly congested world...
keeping people moving and communities prospering.

Committed to our customers	Dedicated to safety	Supportive of each other	Accountable for performance	Setting the highest standards

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From: Rochford, John [mailto:John.Rochford@kingcounty.gov]
Sent: Thursday, November 19, 2015 5:06 PM
To: Sansoterra, Donna
Cc: 'Zandhuis, Erik'
Subject: FW: Mary Freeman

Donna here is a snippet from the 11/18 mdc player.
It looks to me like the driver attempted to take a break in between two groups but was overruled. What is the recourse?

AVL	0806	
AVL	0808	
Message	0809	BREAKS DO NOT BELONG WITH A LUNCH BREAK I WILL TKE A BREAK NOW
AVL	0811	
AVL	0813	
AVL	0815	
Message	0816	Received ACK meesage for OriginalMsgId = 117982 MessageType = MDT:DVText
Message	0816	WELL TODAY IS JUST ONE OF THEM DAYS WE ALREADY HAVE OVER 15 DRIVERS THAT DIDNT SHOW UP SO WE ARE TRY.
AVL	0817	
AVL	0819	
Message	0820	Vehicle ACK for Evid: 14442
AVL	0821	

John Rochford
Administrator of Access Operations
KSC-TR-0200
201 South Jackson
Seattle, WA 98104
(206) 477-2844

From: Zandhuis, Erik [mailto:erik.zandhuis@transdev.com]
Sent: Thursday, November 19, 2015 4:24 PM
To: Rochford, John
Subject: Fwd: Mary Freeman

Hi John,

FYI
As we just discussed the rest breaks.

Erik Zandhuis
General Manager

Begin forwarded message:

> **From:** "Lemalu, Leiite" <leiite.lemalu@transdev.com>
> **Date:** November 19, 2015 at 4:17:29 PM PST
> **To:** " (donna.sansoterra@firstgroup.com)" <donna.sansoterra@firstgroup.com>, "Satia, Vanessa" <Vanessa.Satia@firstgroup.com>, "Poloai, Nora" <Nora.Poloai@firstgroup.com>, "Ibrahim, Hany" <Hany.Ibrahim@firstgroup.com>
> **Cc:** "Zandhuis, Erik" <erik.zandhuis@transdev.com>, "Durant, Andrew" <andrew.durant@transdev.com>, "Younes, MJ" <mj.younes@transdev.com>, "Kostyukevich, Vasiliy" <vasiliy.kostyukevich@transdev.com>

Subject: Mary Freeman

Hello Donna,

I know we asked for help for Mary Freeman's breaks and lunch more often than any other driver. When she calls us our only option is to reach out to your team for help on her breaks or lunch and that is usually an odd conversation since we are telling you what she had told you already. Is there any merit to her concerns? For the most part yes. We know this week we have asked for help with rides more so than before and without a doubt contributed to tight schedules. However, there has to be some consistency with her breaks and lunches. I have instructed our team to watch Mary's route daily and do all we can to make sure she is scheduled for her 2 breaks.

I took the time to lay out a 3 week span of her hours. As you see I looked at the following time durations: LeaveDepot-1stBreak, 1stBreak-Lunch, LD-L, L-2ndBreak, 2ndBreak-ReturnToDepot, and L-RTD. As you see it is so sporadic and inconsistent. I see now why she makes a big deal of it. For a scheduled 8 hours shift. Here are some of the anomalies to name a few. 1. Lunch violation on 5 out of the 14 days. 2. No breaks 6 times in the last 3 weeks, 1 days of no breaks. 3. 3 times of Over 3 hours from LD time to 1st Break. Mary is one of our vocal driver. This is a likely scenario with other routes, but some drivers just don't say a thing.

Day	Route	start time	1st-B	Lunch	2nd-B	RTD		start-1stB	1stB-L	start-L	L-2ndB	2ndB-RTD	L-RTD	
11/19/2015	4022	605	0931-0941	1106-1136	none			3h-26m	1h-25m	5h-1m				
11/18/2015	4022	605	none	1015-1045	none	1440				4h-10m			3h-55m	
11/17/2015	4022	605	0801-0811	940-1010	1335-1345	1430		1h-56m	1h-29	3h-35m	2h-25m	45m	4h-20m	
11/16/2015	4022	605	none	1106-1136	1324-1334	1500				5h-1m	1h-48m	1h-26m	3h-24m	
11/13/2015	4022	605	0808-0818	1040-1110	1247-1257	1430		2h-3m	2h-22m	4h-35m	1h-37m	1h-33m	3h-20m	
11/12/2015	4022	605	0956-1006	1101-1131	1240-1250	1447		3h-51m	55m	4h-56m	1h-9m	2h-45m	3h-16m	
11/11/2015	4022	605	0817-0827	0945-1015	1120-1130	1415		2h-12m	1h-18m	3h-40m	1h-8m	2h-45m	4h	
11/10/2015	4022	605	none	0927-0957	1105-1115	1415				3h-22m	1h-8m	1h-10m	2h-50m	
11/9/2015	4022	605	0850-0900	1110-1140	1310-1320	1430		2h-45m	2h-10m	5h-5m	1h-20m	1h-10m	2h-50m	
11/6/2015	sick							sick						
11/5/2015	4022	605	0920-0930	1105-1135	1241-1251	1435		3h-15m	1h-35m	5h	1h-6m	1h-44m	3h	
11/4/2015	4022	605	0825-0835	1016-1046	none	1400		2h-10m	1h-35m	4h-11m			3h-14m	
11/3/2015	4022	605	732-742	941-1011	1105-1115	1416		1h-27m	1h-59m	3h-36m	54m	3h-1m	4h-5m	
11/2/2015	4022	605	722-732	1215-1245	1409-1419	1430		1h-17m	4h-43m	6h-10m	1-24m	11m	1h-45m	

Thank you,
Leiite Lemalu

EXHIBIT E

From:	Sansoterra, Donna <Donna.Sansoterra@firstgroup.com>
Sent:	Thursday, December 3, 2015 7:44 PM
To:	Zandhuis, Erik <erik.zandhuis@transdev.com>; Andrew Durant (andrew.durant@transdev.com); Ite Lemalu (leiite.lemalu@transdev.com)
Cc:	Irvin, Tom <tom.irvin@firstgroup.com>
Subject:	Driver breaks

All,

It has been a frustrating several weeks. Trip volume has not gone down, we have struggled with driver availability this bid, weather on some days, accidents daily, etc.

We have drivers complaining about where their breaks are and asking dispatch to move them if it will make them late for a client. That is not always possible. We all know how this works. While dispatch's responsibility is to monitor the routes and do what we can to keep them on time, it is not always possible. I get frustrated when drivers ask us to move a break or lunch to keep their client on time or their end of route on time then toss the state laws at us when we comply with the drivers request. We are packed today. On time is at 80%. Overflow does not have availability or we would be moving rides to them. While that is not the drivers fault, it is not ours either. We cannot always have every route on time and running beautifully.

How do you want us to handle this? Drivers need to take their rest periods where they are scheduled. If they are in violation it is our responsibility to correct, but if they refuse to take or ask for it to be moved, that is out of our control. Please advise.

Donna Sansoterra
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to provide solutions for an increasingly congested world...
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| Committed to our customers | Dedicated to safety | Supportive of each other | Accountable for performance | Setting the highest standards |

EXHIBIT F

From:	Sansoterra, Donna <Donna.Sansoterra@firstgroup.com>
Sent:	Friday, January 8, 2016 7:53 PM
To:	Rochford, John <John.Rochford@kingcounty.gov>; Glauner, Michael <Michael.Glauner@kingcounty.gov>; Kari Ware <kariw@solid-ground.org>; Zandhuis, Erik <erik.zandhuis@transdev.com>; Andrew Durant (andrew.durant@transdev.com); Henault, Cecile <cecileh@solid-ground.org>; Irvin, Tom <tom.irvin@firstgroup.com>; Tua, Lanai <lanai.tua@firstgroup.com>
Cc:	Poloai, Nora <Nora.Poloai@firstgroup.com>; Satia, Vanessa <Vanessa.Satia@firstgroup.com>; Bergland, Eric <Eric.Bergland2@firstgroup.com>; Ibrahim, Hany <Hany.Ibrahim@firstgroup.com>; Brooks, David <David.Brooks@firstgroup.com>; Thiagarajan, Sekar <Sekar.Thiagarajan@firstgroup.com>; King, Marshall <Marshall.King@firstgroup.com>; Berndt, Lorelei <Lorelei.Berndt@firstgroup.com>
Subject:	Driver Break/Lunch Violation Report
Attach:	010716 Break_Lunch_Violations.xls

All,
We think we finally have a finished product. David and I have gone back on forth to ensure calculations, notes, violations, etc. are pulling from the correct source. We have not truly had a tool for managing this performance metric other than Trapeze, but there were too many variables that made the Trapeze violations not valid/accurate.

We have the report calculating the driver start time 15 minutes before scheduled pullout, then it calculates the actual time to each rest period, the start and stop of the rest period, then the time to end of route. For breaks there is a 3 hr threshold that will show a violation and for lunch it is 5 hours from start of route. Any time a driver has a period of work more than 3 hours without a rest a violation will show.

As you can see by the percentages, there is some work to be done in my department. I now have a useful tool to manage dispatch performance to coach/counsel dispatchers who are failing to get breaks in the correct spot. However; we all know there are many factors that can run breaks and lunches over so as a group, do we want to have a threshold to start with? Maybe chasing down and researching any violation in excess of 10 minutes, 20 minutes? My expectation is that with daily monitoring and coaching we will see the violations decrease rapidly and we can determine if we want to have dispatch add notes live day if there is a reason the break or lunch went into violation so we know it was at least being watched? All topics for discussion.

Let me know what you think.

Thanks,
Donna Sansoterra
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our customers	to safety	of each other	for performance	highest standards